

ORIGINAL

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CITY OF DES PLAINES, an Illinois Municipal Corporation,

Petitioner,

vs.

UNION PACIFIC RAILROAD COMPANY and WISCONSIN
CENTRAL LTD., and ILLINOIS DEPARTMENT OF
TRANSPORTATION,

Respondents.

In the matter of the petition of the City of Des Plaines for an order of the
Illinois Commerce Commission to require the respondents to pay their
allocable share of the costs of a major alteration of an above grade crossing
in the City of Des Plaines, Cook County, Illinois.

RECEIVED
JAN 28 2004

Illinois Commerce Commission
RAIL SAFETY SECTION

T03-0102

MOTION FOR STAY

- NOW COMES WISCONSIN CENTRAL LTD. ("WCL"), through its attorney,
Michael J. Barron, Jr. with its Motion for Stay, and in support thereof states as follows:
1. In this Docket, Petitioner is seeking an order directing the Respondent railroads to reconstruct and relocate the overhead bridges by which such railroads intersect Miner Street in the City of Des Plaines.
 2. The subject matter of the Petition ("Petition") in the above-referenced docket is also the subject matter of disputes currently pending in Case Numbers 03 C 00060 (instituted by WCL) and 03 C 00555 (instituted by Union Pacific Railroad Company ("UP")) in the United States District Court for the Northern District of Chicago ("District Court Cases").
 3. In the District Court Cases, which are both currently before the same judge, the railroads are seeking declaratory relief and an order that the Commission's consideration

DOCKETED

JAN 28 2004

of the subject matter in this Docket herein has been preempted by the Interstate Commerce Commission Termination Act.

4. On May 5, 2003, members of the Commission (which members are defendants in the District Court Cases and will for clarity be referred to as the "Commission") filed a motion to dismiss the District Court Cases on the grounds that the cases were not ripe.

5. On November 6, 2003, the District Court granted the Commission's motion to dismiss in UP's District Court Case, but did not make it clear whether its order applied to the Commission's dismissal motion filed in WCL's District Court Case. Furthermore, the District Court's order did not dismiss the City of Des Plaines in either of the District Court Cases.

6. On or about November 14, 2003, WCL moved the District Court to enter an order clarifying the status of the District Court Cases. While no party has objected to WCL's clarification motion in the District Court Cases, the Court has not issued a clarifying order.

7. WCL anticipates that the District Court Cases may result in adverse appealable rulings against the railroad respondents in this docket herein.

8. The railroad respondents will have a right of appeal in the District Court Cases.

9. Should it be necessary, WCL intends on appealing the District Court Cases to the Court of Appeals.

10. WCL believes that a Commission proceeding taking place while it is litigating the same subject matter in the Federal Courts is a commitment of resources that may not be necessary, and that for clarity, the Commission should stay proceedings in this docket until the District Court Cases have been resolved and their appeals exhausted.

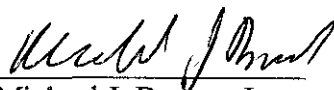
WHEREFORE, WCL respectfully requests that the Commission enter an order:

1. Staying proceedings in the docket until the District Court Cases have been resolved and their appeals exhausted; and
2. Grant further relief that the Commission deems just and equitable.

Dated: January 27, 2004

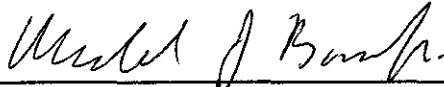
Respectfully submitted,

WISCONSIN CENTRAL LTD.

By: 
Michael J. Barron, Jr.
Counsel for Wisconsin Central Ltd.
CN
455 North Cityfront Plaza Dr., 20th floor
Chicago, IL 60611-5317
Phone: (312) 755-7954
Fax: (312) 755-7669
ARDC #6228809

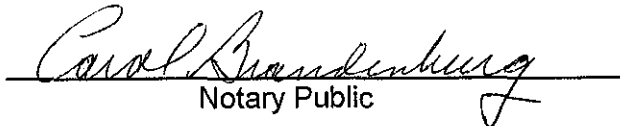
VERIFICATION

Michael J. Barron, Jr., being duly sworn, deposes and says that he is Counsel for Wisconsin Central Ltd., that he has read the foregoing Motion of Wisconsin Central Ltd., and that the contents thereof are true and correct to the best of his knowledge and belief.

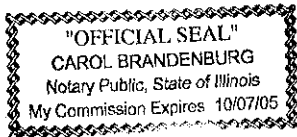


Michael J. Barron, Jr.

Subscribed and sworn to
before me this 27th day of
January, 2004.


Notary Public

My Commission Expires:



STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

CITY OF DES PLAINES, an Illinois Municipal Corporation,

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Illinois Commerce Commission to require the respondents to pay their
allocable share of the costs of a major alteration of an above grade crossing
in the City of Des Plaines, Cook County, Illinois.*

NOTICE OF FILING

To: Mr. Mack H. Shumate, Jr.
Union Pacific Railroad Company
101 North Wacker Drive, #1920
Chicago, IL 60606

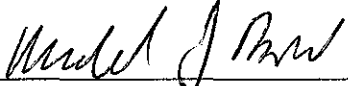
Ms. Stacey C. Hollo
Counsel
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 300
Springfield, IL 62764

Mr. Paul Keller
Ancel, Clink, Diamond, Bush, DiCianni & Rolek P.C.
140 South Dearborn Street, 6th floor
Chicago, IL 60603

PLEASE TAKE NOTICE that on January 27, 2004, I have sent for filing with the Illinois Commerce Commission, 527 East Capitol Avenue, Springfield, IL 62701, the attached Motion of Wisconsin Central Ltd.

WISCONSIN CENTRAL LTD.

By


Michael J. Barron, Jr.
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ARDC 6228809

CERTIFICATE OF SERVICE

I, MICHAEL J. BARRON, JR., an attorney, certify that I served the foregoing Motion upon those made party to this proceeding by enclosing copies of the foregoing in envelopes addressed to the parties as set forth below, postage prepaid, and depositing the envelopes in the United States mail at 455 North Cityfront Plaza Drive, Chicago, IL on the 27th day of January, 2004.


Michael J. Barron, Jr.

Mr. Mack H. Shumate, Jr.
Union Pacific Railroad Company
101 North Wacker Drive, #1920
Chicago, IL 60606

Ms. Stacey C. Hollo
Counsel
Illinois Department of Transportation
2300 S. Dirksen Parkway, Room 300
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